

REMARKS

Claims 38-64 are pending in the instant application. Claims 38-64 stand rejected. The Applicants traverse each ground of rejection. Claim 58 is objected to. The Applicants herein amend Claim 38, 43-47 and 55, and add new claim 65 in view of the amendment to claim 38. Claim 58 has been cancelled herein without prejudice. The claims, as amended, either correct obvious typographical errors, or find support in the specification at page 7, line 26 through page 8, line 15, and elsewhere. Accordingly, no new matter is raised by this amendment. In view of the following amendment and response, the Applicants believe the claims presented herein are allowable. Reconsideration is respectfully requested.

CLAIM CORRECTIONS

The Examiner requests that claims 43-46, 38 and 55 be corrected. The Applicants made each suggested correction in the instant amendment.

OBJECTIONS

The Examiner objects to claim 58 as being a duplicate of claim 38. Claim 58 is cancelled herein without prejudice, thus rendering this objection moot.

REJECTIONS UNDER 35 U.S.C. § 102(b) AND ALTERNATIVELY § 103(a)

Claims 38-64 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by or in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over Modi, *et al.*, U.S. 5,653,987 (herein Modi, *et al.*).

At page 3 of the Office Action, numbered paragraph 5, the Examiner states:

Modi et al. anticipate the method of instant claim 38 for the reason that the intranasally delivered composition is the same in both the reference and the instant claims. The intended effect recited in the preamble of instant claims 38 does not limit the actual **method** which requires the **intranasal administration of the same composition** used by Modi et al. The open-ended "comprises" terminology of instant claim 38 does not exclude additional components in the "vaccine composition" such as an additional "absorption enhancing compound" of Modi et al.

Serial No.: 09/647,518
Group Art Unit No.: 1641

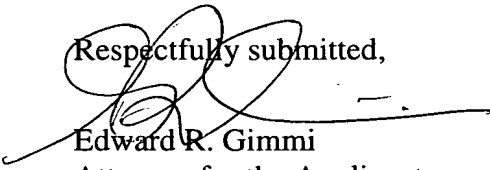
Modi, *et al.* disclose a liquid pharmaceutical agent formulation suitable for nasal delivery of drugs with at least two absorption enhancing compounds that include EDTA, oleic acid, linoleic acid, polyoxyethylene X-lauryl ether, *etc.*

Claim 38, as amended herein, recites "at least one immunostimulant". Modi, *et al.* neither identically disclose nor suggest a composition having at least one immunostimulant. The dependent claims incorporate each and every limitation of the interdependent claim 38.

In view of the foregoing amendment and remarks, the Applicants respectfully assert that the prior art reference cited by the Examiner do not anticipate or render the instant claims obvious. The Applicants hereby respectfully request the withdrawal of these rejections under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a).

The Applicants reserve the right to prosecute, in one or more patent applications, the claims as originally filed and any other claims supported by the specification. The Applicants thank the Examiner for the Office Action and consideration of this response. In view of the above amendment and remarks, which the Applicants believe are fully responsive to the outstanding Office Action, the Applicants respectfully request reconsideration of the rejected claims and allowance of all claims in the application. The Examiner is invited to contact the Applicants' undersigned attorney at the number provided below if this might facilitate prosecution of this case.

Respectfully submitted,


Edward R. Gimmi
Attorney for the Applicants
Registration No. 38,891

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939
Phone (610) 270-4478
Facsimile (610) 270-5090
N:\ERG\APPS\Bcases\B45139\Amd&Response2.doc